

# HOUSE BILL No. 2007

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.3-7-2; IC 5-14-3-2; IC 9-14-2; IC 9-15; IC 9-16; IC 9-29.

**Synopsis:** Operation of motor vehicle license branches. Requires the bureau of motor vehicles commission to contract with responsible and responsive contractors by competitive bids for license branch operations. Removes the employees of the license branches from the public employees retirement fund. Requires the bureau of motor vehicles commission to inform the license branches of changes in service charges to be collected by the license branches. Provides that a person who fails to collect service charges or to deposit them in the state license branch fund commits a Class D felony. (Current law provides this violation is a Class C infraction.)

**Effective:** July 1, 1999.

**Turner**

January 27, 1999, read first time and referred to Committee on Commerce and Economic Development.



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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 2007

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A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10.3-7-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The following  
3 employees may not be members of the fund:

4 (1) Officials of a political subdivision elected by vote of the  
5 people, unless the governing body specifically provides for the  
6 participation of locally elected officials.

7 (2) Employees occupying positions normally requiring  
8 performance of service of less than six hundred (600) hours  
9 during a year who:

10 (A) were hired before July 1, 1982; or

11 (B) are employed by a participating school corporation.

12 (3) Independent contractors or officers or employees paid wholly  
13 on a fee basis.

14 (4) Employees who occupy positions that are covered by other  
15 pension or retirement funds or plans, maintained in whole or in  
16 part by appropriations by the state or a political subdivision,  
17 except:

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(A) the federal Social Security program; and

(B) the prosecuting attorneys retirement fund created by IC 33-14-9.

(5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who ~~may be~~ **were** included as members under IC 9-16-4 **before July 1, 1999.**

(6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

(8) Members and employees of the state lottery commission.

SECTION 2. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits

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exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in IC 16-18-2-272(c).

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

"Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.



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(3) Any entity or office that is subject to:

(A) budget review by either the state board of tax commissioners or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcoholic beverage commission, conservation officers of the department of natural resources, and the security division of the state lottery commission.

(7) Any license branch ~~staffed by employees of the bureau of motor vehicles commission~~ **operated** under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the

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attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 3. IC 9-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The commissioner shall do the following:

- (1) Administer and enforce this title and other statutes concerning the bureau.
- (2) Administer and enforce the policies and procedures of the commission.
- (3) Organize the bureau in the manner necessary to carry out the duties of the bureau.
- (4) Submit to the commission, before September 1 of each year, budget proposals for the bureau. ~~including license branches staffed by employees of the commission under IC 9-16.~~
- (5) Perform other duties assigned by the commission.

SECTION 4. IC 9-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The commissioner ~~may appoint~~ **shall approve** the individuals the commissioner considers necessary to examine applicants for permits or licenses under this title.

(b) An individual ~~appointed~~ **approved** by the commissioner under subsection (a) shall conduct examinations of applicants for permits or licenses under this title and shall submit a written report to the bureau after each examination. The written report must include examination findings and recommendations based upon those findings.

SECTION 5. IC 9-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The bureau shall **require its contractors to** provide notary public service for the convenience of members of the public when applying for a certificate of title, registration, or license.

SECTION 6. IC 9-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The commission shall do the following:

- (1) Develop and continuously update the bureau's policies.
- (2) Recommend to the governor legislation that is needed to implement the policies developed by the commission.
- (3) Recommend to the bureau proposed rules that are needed to

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1 implement the policies developed by the commission and require  
2 those proposed rules to be adopted under IC 4-22-2.

3 (4) Review, revise, adopt, and submit to the budget agency budget  
4 proposals for the commission, the bureau, and the license  
5 branches operated under ~~IC 9-16~~; **including the budget required**  
6 **by IC 9-16-3-3. IC 9-16-1-4 and IC 9-16-1-4.5.**

7 (5) ~~Establish the determination criteria and determine the number~~  
8 ~~and location of license branches to be operated under IC 9-16.~~  
9 ~~However, there must be at least one (1) full service license branch~~  
10 ~~in each county.~~

11 (6) Establish and adopt minimum standards for the operation and  
12 maintenance of each full service license branch operated under  
13 ~~IC 9-16.~~

14 (7) ~~Before January 1, 1997, establish and~~ Adopt minimum  
15 standards for the operation and maintenance of each ~~partial~~  
16 service contractor under IC 9-16. The standards must result in  
17 ~~more~~ convenience to the public by providing license branch  
18 services at as many walk-up locations as possible without  
19 increasing the costs of providing these services. **The standards**  
20 **must also guarantee safety to the public.**

21 (8) ~~Before March 1, 1997, (6)~~ Establish and adopt minimum  
22 standards for ~~providing~~ license branch services using telephonic,  
23 facsimile, electronic, ~~or and~~ computer means under IC 9-16.

24 (9) (7) Administer the state license branch fund established under  
25 IC 9-29-14.

26 SECTION 7. IC 9-15-2-2 IS AMENDED TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 1999]: Sec. 2. The commission ~~may~~ **shall** do  
28 the following:

29 (1) Procure insurance against any loss in connection with the  
30 commission's operations in the amount the commission considers  
31 necessary or desirable.

32 (2) Contract for the operation of full service license branches  
33 under IC 9-16-1-4 and partial services under IC 9-16-1-4.5.

34 (3) Take any other action necessary to achieve the commission's  
35 purpose.

36 SECTION 8. IC 9-15-4-1 IS AMENDED TO READ AS FOLLOWS  
37 [EFFECTIVE JULY 1, 1999]: Sec. 1. IC 34-13-3 applies to a claim or  
38 suit in tort against any of the following:

39 (1) A member of the commission.

40 (2) An employee of the commission. ~~who is employed at a license~~  
41 ~~branch under IC 9-16, except for an employee employed at a~~  
42 ~~license branch operated under a contract with the commission~~



under IC 9-16-1-4.

SECTION 9. IC 9-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter, "qualified person" "**contractor**" means ~~any of the following~~:

(1) ~~A motor club that is any of the following:~~

(A) ~~A domestic corporation.~~

(B) ~~A foreign corporation qualified to transact business in Indiana under IC 23-1 or IC 23-17.~~

(2) ~~A financial institution (as defined in IC 28-1-1-3).~~

(3) ~~A new motor vehicle dealer licensed under IC 9-23-2.~~

(4) ~~Other persons, including persons licensed under IC 9-23-2 that are not covered by subdivision (3); a person that:~~

(1) the commission determines can meet the standards adopted by the commission under IC 9-15-2-1(7) and the requirements for partial service contractors under section 4.5 of this chapter;

(2) **is capable of performing the contracted services fully;**

(3) **has integrity and reliability that will ensure performance; and**

(4) **has submitted a bid or quotation in conformity with instructions, contract documents, terms, and other conditions for the contract.**

SECTION 10. IC 9-16-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The commission shall ~~operate or~~ be responsible for the administration of all license branches in Indiana under this article.

SECTION 11. IC 9-16-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) License branches have all the ~~powers and~~ duties assigned to license branches by statute and by the commissioner.

(b) The commissioner shall ~~assign to~~ **enter into contracts with contractors to operate** license branches ~~those functions to provide services that:~~

(1) the commission or the bureau is legally required or authorized to perform; and

(2) cannot be adequately performed by the commission or the bureau without assistance from the license branches.

SECTION 12. IC 9-16-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The commission may contract with a qualified ~~person~~ **contractor** for:

(1) the operation of a full service license branch under this section; or

(2) ~~providing~~ **the provision of** partial services under section 4.5





of this chapter.

(b) A contract for the operation of a full service license branch must include the following provisions:

(1) The contractor shall provide a full service license branch, including the following services:

(A) Vehicle titles.

(B) Vehicle registration.

(C) Driver's licenses.

(D) Voter registration as provided in IC 3-7.

(2) The contractor shall provide trained personnel to properly process branch transactions.

(3) The contractor shall do the following:

(A) Collect and transmit all bureau fees, **service charges**, and taxes collected at the license branch.

(B) Deposit the taxes collected at the license branch with the county treasurer in the manner prescribed by IC 6-3.5 or IC 6-6-5.

(4) The contractor shall generate a transaction volume sufficient to justify the installation of bureau support systems.

(5) The contractor shall provide fidelity bond coverage in an amount prescribed by the commission.

(6) The contractor may operate the license branch within a facility used for other purposes.

(7) The contractor shall pay the cost of any post audits conducted by the commission or the state board of accounts on an actual cost basis.

~~(8) The commission shall provide support systems and driver's license examiners on the same basis as state operated branches.~~

~~(9) The commission shall provide the same equipment to contractors as is provided to state operated branches.~~

~~(10) The commission must approve each location and physical facility based upon criteria developed by the commission.~~

~~(11) (9) The term of the contract must be for a fixed period.~~

~~(12) (10) The contractor shall agree to provide voter registration services and to perform the same duties imposed on the commission under IC 3-7.~~

SECTION 13. IC 9-16-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.5. (a) The commission may contract with a **qualified person contractor** to provide partial services at a qualified person's walk-up location, including locations within a facility used for other purposes, such as electronic titling and title application services and self-serve terminal



access.

(b) A contract for providing motor vehicle registration and renewal services at a walk-up location must include the following provisions:

(1) The contractor must provide trained personnel to properly process motor vehicle registration and renewal transactions.

(2) The contractor shall do the following:

(A) Collect and transmit all bureau fees and taxes collected at the contract location.

(B) Deposit the taxes collected at the contract location with the county treasurer in the manner prescribed by IC 6-3.5 or IC 6-6-5.

(3) The contractor shall provide fidelity bond coverage in an amount prescribed by the commission.

(4) The contractor shall pay the cost of any post audits conducted by the commission or the state board of accounts on an actual cost basis.

(5) The commission must approve each location and physical facility used by a contractor.

(6) The term of the contract must be for a fixed period.

SECTION 14. IC 9-16-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. A person who violates section 5 of this chapter commits a ~~Class C infraction~~. **Class D felony.**

SECTION 15. IC 9-16-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The value of all

~~(1) purchases of supplies, fixtures, and equipment;~~

~~(2) purchases of real property; and~~

~~(3) lease agreements and contracts~~

shall be appraised by the Indiana department of administration or by an independent appraiser at the discretion of the Indiana department of administration. The cost of a ~~purchase, lease agreement, or~~ contract may not exceed the appraised value.

SECTION 16. IC 9-16-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. ~~(a) Notwithstanding IC 5-16, IC 5-17-1, and IC 5-22, the commission may develop a system of procurement that applies only to procurement of equipment, materials, and goods required for the operation of license branches.~~

~~(b) A system of procurement adopted under this section must provide that~~ Whenever:

(1) a contract is awarded by acceptance of bids, proposals, or quotations; and

(2) a trust (as defined in IC 30-4-1-1(a)) submits a bid, proposal,



or quotation;  
the bid, proposal, or quotation must identify each beneficiary of the trust and each settlor empowered to revoke or modify the trust.

~~(c) This section does not apply to the purchasing, leasing, or disposal of real property.~~

SECTION 17. IC 9-16-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. Based on the ~~proposed budgets~~ **competitive bids** from each of the license branches, **branch contractors**, the commission shall develop a statewide license branch ~~budget~~ **revenue projection**. If the commission determines that the total of:

(1) revenues from license branch operations; and  
(2) appropriations received by the commission;  
are insufficient, ~~to support license branch operations~~, the commission shall increase the branch service charges under IC 9-29-3.

SECTION 18. IC 9-16-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. On or before September 1 of each even-numbered year, the commission shall submit to the budget agency a proposed budget. The commission shall include, at a minimum, the following information on a county by county basis:

- (1) Total estimated revenue by source.
- (2) ~~Total estimated expenditures for salaries and fringe benefits.~~
- (3) ~~Total estimated expenditures for other personal services.~~
- (4) ~~Total estimated expenditures for nonpersonal services.~~
- (5) ~~Total estimated expenditures for contractual services.~~
- (6) ~~Total estimated expenditures for supplies and materials.~~
- (7) ~~All other estimated expenditures.~~
- (8) ~~The number of full-time and part-time employees.~~
- (9) Other information the budget agency requires.

SECTION 19. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who ~~are were~~ assigned to be managers and employees of commission license branches **before July 1, 1999**. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8.

SECTION 20. IC 9-16-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The commission, **through its license branch contractors**, shall offer voter registration services under this chapter in addition to providing a voter registration



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1 application as a part of an application for a motor vehicle driver's  
 2 license, permit, or identification card under IC 9-24-2.5 and 42 U.S.C.  
 3 1973gg-3.

4 SECTION 21. IC 9-16-7-4 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The registration  
 6 forms provided under section 3 of this chapter must be:

7 (1) prescribed by the Indiana election commission to permit the  
 8 NVRA official to fulfill the NVRA official's reporting duties  
 9 under 42 U.S.C.1973gg-7(a)(3) and IC 3-7-11-2; and

10 (2) placed in an easily accessible location within the branch, so  
 11 that members of the public may obtain the forms without further  
 12 assistance from the ~~commission~~ **branch contractors and**  
 13 **employees of the contractors.**

14 SECTION 22. IC 9-29-3-19 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) Subject to  
 16 subsection (b) and with the approval of the commission, the bureau  
 17 may adopt rules under IC 4-22-2 to do the following:

18 (1) Increase or decrease any of the service charges listed in  
 19 sections 1 through 18 of this chapter.

20 (2) Impose a service charge on any other license branch service  
 21 that is not listed in sections 1 through 18 of this chapter.

22 (3) Increase or decrease a service charge imposed under  
 23 subdivision (2).

24 (b) The bureau's authority to adopt rules under subsection (a) is  
 25 subject to the condition that a service charge must be uniform  
 26 throughout all license branches and at all partial service locations in  
 27 Indiana.

28 **(c) The commission shall inform each contractor of the proper**  
 29 **service charge for each license branch service.**

30 SECTION 23. IC 9-29-3-20 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. Notwithstanding  
 32 any other law, each license branch operated under IC 9-16 shall collect  
 33 the following:

34 (1) The service charges listed in sections 1 through 18 of this  
 35 chapter, including any increases or decreases in those charges  
 36 imposed by rule under section 19 of this chapter.

37 (2) Any new service charges imposed by rule under section 19 of  
 38 this chapter **when the commission informs the license branch**  
 39 **of the new service charge.**

40 SECTION 24. IC 9-29-14-5 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The fund consists of  
 42 the following:



- 1 (1) Service charges **and fees** collected by license branches.
- 2 (2) Money received from any other source, including
- 3 appropriations.
- 4 SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE
- 5 JULY 1, 1999]: IC 9-14-2-7; IC 9-16-2-2; IC 9-16-2-4; IC 9-16-3-1;
- 6 IC 9-16-4-2.

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